


<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number: 08575-0104001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.  Date of Deposit  Signature  Typed or Printed Name of Person Signing Certificate	Application Number  10/811,263	Filed  March 26, 2004
	First Named Inventor  Boris Kalinichenko, et al.	
	Art Unit  3621	Examiner  Murali Dega
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).          Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest.          See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>41,942</u>          (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.          Registration number if acting under 37 CFR 1.34 _____</p> <p style="text-align: right;">           Signature          _____          Faustino A. Lichauco          Typed or printed name          _____          (617) 542-5070          Telephone number          _____          May 26, 2009          Date       </p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.</p>		
<input checked="" type="checkbox"/> Total of 1 form is submitted.		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Boris Kalinichenko, et al.	Art Unit :	3621
Serial No. :	10/811,263	Examiner :	Murali Dega
Filed :	March 26, 2004	Conf. No. :	1624
Title :	IDENTIFYING PARTIAL USER-ENTERED DATA		

Commissioner for Patents  
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

**SECTION 103 REJECTION OF CLAIM 1**

***Block* FIG. 5 has no link that establishes a voice channel**

The Examiner regards *Block*'s FIG. 5 as displaying claim 1's "electronic form for display to a customer." However, the Examiner has not identified anything in *Block*'s FIG. 5 that "establishes a voice channel" between any two parties.

*Block*'s FIG. 5 includes two pull down menus. These menus allow a user to specify a departure and arrival airports. Neither of these menus "establishes a voice channel" between two parties. FIG. 5 also shows "word icons" 47-51. But there is no indication in *Block* that any one of these word icons "establishes a voice channel between" a customer representative and a passenger/user.

The remaining fields from FIG. 5 appear to cause the browser to display additional text information. For example, clicking on the word "Parking" most likely causes the browser to display information about nearby parking lots. It is quite plain therefore that nothing in FIG. 5 "establishes a voice channel between" the customer representative and anybody else.

The Examiner bases his entire theory for why FIG. 5 discloses “a link that, when activated, establishes a voice channel” on *Block*'s paragraph 65, which refers to his calling an 800 number.

Paragraph 65 describes how someone would go about using *Block*'s system. Specifically, since *Block*'s system requires access to the internet, one must first connect to the internet. According to the cited text, the first step in connecting to the internet is to turn on one's computer. *Block* describes this as follows:

“With reference to the flowchart of FIG. 18, the first step **140** is for the member to turn on or “power-up” his/her device for entering the Internet **12** to obtain access to the system website **14**.”<sup>1</sup>

With the computer now turned on, the next step in connecting to the internet would be to place a telephone call.<sup>2</sup> *Block* explains this as follows:

Next, the member either uses speed dialing via step **142**, or direct dialing via step **144** for dialing up AirportAmerica's 800 number.<sup>3</sup>

Thus, what paragraph 65 actually discloses is establishing a *data* channel, not a voice channel.

Moreover, not only is the channel not a voice channel, it is also *not* between a passenger/user and a customer service representative as claim 1 requires. Instead, the channel is between the passenger/user's computer and the AirportAmerica server. There is no customer representative involved in the procedure of paragraph 65.

Even if one were to regard step **144** as establishing a voice channel, it is clear that step **144** cannot possibly involve interacting with any element in *Block*'s FIG. 5 for the simple reason that at the time that *Block*'s step **144** is actually being carried out, the “electronic form” shown in *Block*'s FIG. 5 *has not yet been transmitted* for display to the customer. This is because the “electronic form” in FIG. 5 cannot be transmitted until the internet connection has been

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<sup>1</sup> *Block*, paragraph 65.

<sup>2</sup> *Block*'s priority date is in 2000, before broadband connections were as ubiquitous as they are today.

<sup>3</sup> *Block*, paragraph 65.

established. Since step 144 takes place *before* the internet connection has been established, there would be no way to transmit the electronic form of FIG. 5 to the user. Since according to claim 1 it is the form that includes the link for establishing the voice channel,<sup>4</sup> the claim limitation cannot be met.

***Block* has no link that enables viewing of user-entered data**

Claim 1 requires a link that “includes a unique identifier associated with the user-entered data that enables a customer representative to view the user-entered data.”

The Examiner states that *Block*'s paragraph 65 also discloses this limitation. Specifically, the Examiner draws attention to the fact that after the user dials the 800 number, the server “prompts the member to then enter the PIN number, biometric information, or other identifying data.”<sup>5</sup> The Examiner apparently regards “PIN number, biometric information, or other identifying data” as corresponding to claim 1's “user-entered data.”

In response, Applicant points out that there is no evidence on the record to suggest that the “PIN number, biometric information, or other identifying data” is ever viewed by the customer representative. In fact, one of ordinary skill in the art would have understood that displaying any of this information to a customer representative would compromise its security.

Claim 1 requires that the link include “a unique identifier associated with the user-entered data *that enables a customer representative to view the user-entered data.*” Thus, claim 1 requires that a customer representative ultimately “view the user-entered data.” There is no disclosure or suggestion in *Block* that the “PIN number, biometric information, or other identifying data” is ever viewed by a customer representative.

**Motivation to combine *Block* and *LeCouturier* was contrived in hindsight**

*Lecouturier* discloses a system for making reservations on scheduled flights between pre-determined destinations. *Block* discloses a car-pooling system for identifying cars that can give a

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<sup>4</sup> The claim recites “wherein *the form* includes a link that, when activated, establishes a voice channel between the passenger and a customer representative.”

<sup>5</sup> *Block*, paragraph 65.

passenger a lift to a specified location. Although both systems pertain to transportation, they address very different problems.

A first difference is that *Block* arranges transportation between known destinations and pickup points. In *Lecouturier*, there are no limitations on destinations and pickup points. The prospective passenger could be picked up anywhere and be going anywhere.

A second difference is that the flights in *Block* are on a known schedule with known routes. In *Lecouturier*, there is no schedule. A passenger could request pick up at any time. Cars available for giving the passenger a ride could be anywhere at any time.

As a result of these and other differences, one of ordinary skill in the art would have had no reason to modify the teachings of *Block* with any of those in *Lecouturier*.

The Examiner proposes that it would have been obvious

“to have combined different aspects of demand responsive transportation system of *Block* and *Lecouturier* to provide a private transportation with dispatch application program, passenger data storing system and transport reservation system with pick-up location, destination and time of pick-up using passenger specific unique identification information including passenger's phone number and/or biometric information, in order to provide a safe and easy to use demand responsive transportation system that will result in high customer satisfaction through error free transportation arrangements.”<sup>6</sup>

However, there is no indication that *Block*'s system does not already “result in high customer satisfaction through error free transportation arrangements.” Nor is there any indication that *Block*'s system is unsafe, difficult to use, or somehow not “demand responsive”.

The Examiner never identifies what sorts of errors might occur in *Block*'s system. Nor does the Examiner suggest how these errors would be fixed by *Lecouturier*'s teachings. The Examiner does not identify what could possibly be unsafe about using *Block*'s system and how *Lecouturier*'s teachings could be used to improve safety. Nor does the Examiner even attempt to explain why *Block*'s system is not “easy to use” and how *Lecouturier* could make it so. Nor does

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<sup>6</sup> *Final Action*, page 7.

the Examiner explain why *Block's* system lacks demand responsiveness or how it could be made demand responsive by applying teachings from *Lecouturier*. Accordingly, it appears that the Examiner's proposed motivation to combine is entirely speculative.

According to *KSR v. Teleflex*, "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."<sup>7</sup>

The proposed motivation to combine *Block* and *Lecouturier* does not rise to the level of "articulated reasoning with some rational underpinning." Instead, the Examiner has constructed a motivation to combine the reference by: (1) reciting several random features from *Lecouturier*; (2) inventing certain defects in *Block's* system; and (3) stating, in a conclusory fashion, that the randomly-recited features would somehow fix these invented defects in *Block*.

In view of the above, all of the claims should be in condition for allowance. A formal notice of allowance is thus respectfully requested.

Payment for the notice of appeal is enclosed. No additional fees are believed to be due in connection with the filing of this request for review. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing attorney docket 08575-0104001.

Respectfully submitted,

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<sup>7</sup> *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007).